

902 KAR 9:010. Environmental health.

RELATES TO: KRS 211.920-211.945

STATUTORY AUTHORITY: KRS Chapter 13B, 194.050, 211.090, 211.925, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.920 to 211.945 authorizes the Cabinet for Health Services to adopt rules, administrative regulations, and standards relating to the public health or health aspects of the operation of state confinement facilities. The intent of this administrative regulation is to establish uniform standards of institutional sanitation to safeguard the health of persons confined in state confinement facilities, by providing for the opportunity to pursue adequate personal hygiene for health maintenance, control of the incidence and spread of disease, and maintenance of sanitary living conditions. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.

Section 1. Definitions. As used in this administrative regulation:

- (1) "Cabinet" means the Cabinet for Health Services and its designated agents;
- (2) "Cell" means a room designated to provide sleeping and personal storage facilities for no more than two (2) inmates;
- (3) "Confinement housing unit" means a residential structure intended for occupancy by inmates of a state confinement facility, which may be subdivided into wings, levels or sections containing inmate living areas. It may also include facilities for food preparation, service and dining, medical treatment, physical exercise, education, visitation, storage or other functions necessary for the operation and maintenance of the unit.
- (4) "Dayroom" means a common area, room or other place of assembly within a confinement housing unit, or a wing, level, or section of that unit, which is provided for inmate leisure time activities;
- (5) "Dormitory" means a room designated to provide sleeping and personal storage facilities for three (3) or more inmates;
- (6) "Inmate" means any person confined or assigned to residence in a state confinement facility;
- (7) "Inmate space" means the living area, as measured in gross square feet of floor space, required for each inmate within a confinement housing unit;
- (8) "Living area" means the cell or dormitory to which an inmate is assigned for housing, and includes dayrooms, personal hygiene facilities, and other areas within a confinement housing unit which are normally accessible to an inmate on a daily basis. An area is considered normally accessible when an inmate can enter or use it and includes areas accessible for specified hours or by permission only;
- (9) "Personal hygiene facility" means a room or rooms which contain sanitary fixtures such as lavatories, water closets, showers or bathtubs, and other necessary appurtenances for maintaining inmate personal hygiene.

Section 2. Sanitary Facilities and Controls. (1) The water supply shall be potable, adequate and from an approved source and shall be developed and approved pursuant to applicable requirements of the Natural Resources and Environmental Protection Cabinet.

(2) All sewage and liquid waste matter shall be disposed of into a public sewer system, if available. In the event a public sewer system is not available, disposal shall be made into a private sewage disposal system designed, constructed and operated pursuant to the requirements of the cabinet; if an adequate public sewer system subsequently becomes available, connections shall be made thereto and the state confinement facility's sewage disposal system shall be discontinued.

(3) A drinking fountain or a potable water service fixture with individual single service drinking

cups shall be accessible to inmates in their living area pursuant to the requirements of the State Plumbing Code. The use of a common drinking vessel is prohibited.

(4) Each confinement housing unit shall include personal hygiene facilities within the unit which contain sanitary fixtures meeting the requirements of the State Plumbing Code as to design, fixture type and numbers of fixtures.

(5) All personal hygiene facilities shall be designed and constructed pursuant to the requirements of the State Building Code. All walls, floors, ceilings, partitions, sanitary fixtures and appurtenances shall be maintained in a sanitary condition and in good repair.

(6) An adequate supply of clean washcloths, towels and clothing, and toilet tissue, soap and similar personal hygiene articles shall be issued to each inmate as necessary to maintain hygiene.

(7) Hot and cold or tempered water shall be supplied to all lavatories, showers and bathtubs, and all hot or tempered water supply lines to such fixtures shall be protected by temperature and pressure control devices approved for use by the State Plumbing Code to prevent scalding.

(8) All plumbing shall comply with the State Plumbing Code.

(9) All garbage and rubbish shall, prior to disposal, be kept in leak-proof, nonabsorbent containers and the containers shall be kept covered with tight-fitting lids when stored. Containers shall be flame-retardant. Adequate cleaning facilities shall be provided and containers shall be kept clean. All garbage and rubbish shall be removed from confinement housing units on a daily basis and shall be disposed of at least weekly or more often if necessary, and in a manner approved by the Natural Resources and Environmental Protection Cabinet.

Section 3. Facilities and Equipment. (1) Each confinement housing unit shall provide a minimum inmate space of sixty (60) square feet for each inmate housed within that unit.

(2) Each cell and dormitory shall:

(a) Have at least eight (8) foot ceilings;

(b) Contain a bed for each inmate; and

(c) Provide facilities for storage of inmates' personal belongings, including clothing and towels.

(3) All floors, walls, ceilings, and equipment of confinement housing units shall be constructed pursuant to the State Building Code. All parts of the confinement housing unit and its premises shall be kept in good repair, clean, neat and free of litter and rubbish.

Section 4. Lighting. Each confinement housing unit shall be provided with natural or artificial light sufficient to provide twenty (20) foot candles of light for reading purposes, to permit observation, and for proper cleaning and maintenance. All light fixtures shall be kept in good repair and clean.

Section 5. Heating, Cooling and Ventilation. (1) All confinement housing units shall be provided with heating, cooling and ventilation equipment as required by the State Building Code. The equipment shall be capable of meeting the requirements of the State Fire Marshal for safety, maintenance and operation.

(2) Ventilation, through natural or mechanical means shall be sufficient to provide fresh air and remove disagreeable odors.

Section 6. Vermin Control. (1) Effective measures to control the presence of rodents, flies, roaches, and other vermin on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or breeding of vermin.

(2) Openings to the outside shall be protected against the entrance of rodents, insects and other vermin by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other acceptable means. Screening material shall not be less than sixteen (16) mesh to one (1) inch.

Section 7. Bedding. (1) As a minimum, each inmate in a state confinement facility shall be provided with:

- (a) An approved flame-retardant and water-repellent mattress and pillow;
- (b) A pillowcase;
- (c) A sheet or cloth mattress cover; and
- (d) A blanket.

(2) If, in the sound discretion of the appropriate person in charge of the state confinement facility, any items listed in this section would constitute a danger or hazard to the inmate confined due to a behavior or mental condition, such items may be withheld.

(3) Mattresses, pillows, blankets, sheets, pillowcases, and mattress covers shall be kept in good repair and clean.

(4) Sheets, pillow cases and mattress covers, if used without sheets, shall be changed and laundered at least weekly and before being issued to another inmate.

Section 8. Exercise. Adequate space shall be provided within the state confinement facility to allow all inmates an opportunity to obtain physical exercise.

Section 9. Food Service. All state confinement facilities shall comply with the food service provisions of KRS 219.011 to 219.081 and 219.991 and the State Food Service Code. If food for inmates is not prepared by the state confinement facility, food shall be obtained from a commercial food service establishment holding a valid permit from the cabinet.

Section 10. Food Manufacturing. All food manufacturing and processing conducted at state confinement facilities shall be operated pursuant to applicable public health laws and administrative regulations of the cabinet.

Section 11. Existing Facilities and Equipment. Notwithstanding the other provisions of this administrative regulation, facilities and equipment being used by existing state confinement facilities, which do not fully meet the design and construction requirements of this administrative regulation, may be continued in use, if in good repair, capable of being maintained in a sanitary condition, and creates no health hazard.

Section 12. Plan Review of Construction. Plans for alteration or new construction of state confinement facilities shall be submitted to the appropriate agencies for approval.

Section 13. Inspection of State Confinement Facilities. (1) At least once each six (6) months, the cabinet shall inspect each state confinement facility and shall make as many additional inspections and reinspections as are necessary for carrying out the provisions of this administrative regulation.

(2) When an agent of the cabinet makes an inspection of a state confinement facility, he shall record his findings on an official cabinet inspection report form and provide the supervising and maintaining authorities with a copy of the report. If a deficiency is found, the inspection report shall:

- (a) Set forth the specific deficiencies found;
 - (b) Identify any variances previously granted;
 - (c) Establish a specific and reasonable period of time for the correction of the deficiency found;
- and

(d) State that failure to comply with any notice issued pursuant to the provisions of this administrative regulation may result in the initiation of legal action.

Section 14. Enforcement Hearings. For purposes of enforcement, whenever the supervising and

maintaining authorities have failed to comply with any written notice or order issued under the provisions of this administrative regulation, they shall be notified in writing that legal action may be instituted against the state confinement facility, and the supervising and maintaining authorities, at the end of ten (10) working days following service of the notice, unless a written request for a hearing is filed with the cabinet, by the supervising and maintaining authorities, within the ten (10) working day period. All administrative hearings shall be conducted in accordance with 902 KAR 1:400.

Section 15. Variance Hearings. (1) Any supervising and maintaining authority of a state confinement facility may request in writing that the cabinet consider granting a variance to any provision of this administrative regulation.

(2) Written requests for a variance shall include all pertinent information about the facility, the specific provision(s) of the administrative regulation affected, the specific reason(s) for the request and evidence in support of the request.

(3) Upon receipt of a request for a variance, the cabinet shall review the request and establish a date, time and location for the convening of an administrative hearing. All administrative hearings shall be conducted in accordance with 902 KAR 1:400. The requesting authority shall be notified of the date, time and location of the hearing within ten (10) working days of the receipt of the request, and at least five (5) working days prior to the date of the hearing.

(4) The hearing officer may recommend that a variance be granted or denied, and that legal action be pursued.

(5) A variance may only be granted upon written determination that the granting thereof will not endanger the health of those confined in the facility or the public health. Any variance so granted may be with or without stipulations or restrictions. (3 Ky.R. 373; eff. 10-6-76; Am. 10 Ky.R. 179; eff. 8-3-83; 16 Ky.R. 2063; eff. 5-13-90;. 2362; eff. 8-1-96.)